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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/012,194	12/06/2001	Manuela Martins-Green	407E-914500US	5287

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EXAMINER

QIAN, CELINE X

ART UNIT PAPER NUMBER

1636

DATE MAILED: 08/26/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/012,194

Applicant(s)

MARTINS-GREEN ET AL.

Examiner

Celine X Qian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-42 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Claims 1-42 are pending in the application.

#### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-20, 23, 25 and 26, drawn to an artificial tissue comprising a support matrix, microvascular endothelial cells from a first animal, and connective tissue cells from a second animal, wherein the artificial tissue comprises one or more microvessels, classified in class 623, subclass 1.1.
- II. Claims 21 and 22, drawn to a method of making an artificial tissue comprising mixing a support matrix and connective tissue cells to form two layers of support matrix with a layer of endothelial cells in between two layers, classified in class 623, subclass 921.
- III. Claim 24, drawn to a method for studying a biological process by administering a test compound to the artificial tissue and measure the effect of said test compound, classified in class 623, subclass 912.
- IV. Claims 27-33, drawn to a method of screening for an agent that inhibits angiogenesis by contacting the agent with a biological culture and determining the phosphorylation of adhesion polypeptide VE-Cadherin or PE-CAM in the biological culture, unclassifiable.
- V. Claim 34, drawn to a method of prescreening for an agent that inhibits angiogenesis by contacting said agent with a biological culture and determining the binding of said agent to VE-Cadherin or PE-CAM, unclassifiable.

- VI. Claims 35-41, drawn to a method of screening an agent that inhibits angiogenesis by contacting the agent with a biological culture and determining the phosphorylation of MMP-9, unclassifiable.
- VII. Claim 42, drawn to a method of prescreening for an agent that inhibits angiogenesis by contacting said agent with a biological culture and determining the binding of said agent to, unclassifiable.

The inventions of Groups I-VII are patentably distinct from each other for following reasons.

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the artificial tissue of Group I can also be made by other methods, for example, culturing progenitor cells in cytokines and growth factors that regulate the differentiation of these cells into proper tissue. Therefore, the inventions of Groups I and II are patentably distinct.

The inventions of Groups I and III-VII are patentably distinct because the inventions are drawn to compositions and methods that are not directly related. The artificial tissue of Group I can be used in different methods, for example, tissue implantation. The methods of Groups III-VII do not necessary require the artificial tissue of Group I. Therefore, the inventions of Groups I and III-VII are patentably distinct.

The inventions of Groups II-VII are patentably distinct because the inventions are drawn to methods that require different starting material and modes of operation. Each method has a

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distinct purpose and requires distinct method steps to accomplish such purpose. Therefore, the inventions of Groups II-VII are patentably distinct.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and recognized divergent subject matter, restriction for examination purposes as indicated is proper. A search of the subject matter of one invention would not be co-extensive with a search of the other invention, and therefore the search would be burdensome. Each invention is capable of supporting a separate patent.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celine X Qian whose telephone number is 703-306-0283. The examiner can normally be reached on 9:00-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel Ph.D. can be reached on 703-305-1998. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Celine Qian, Ph.D.

  
JAMES KETTER  
PRIMARY EXAMINER